

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/934,408	BERGMAN ET AL.
	Examiner Naeem Haq	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 10/28/2005.

2.  The allowed claim(s) is/are 3-5 and 8-16.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

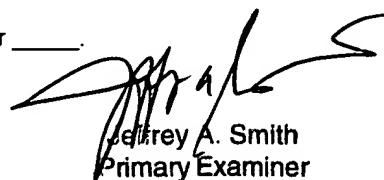
(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date 1/6/2006.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date 1/6/2006.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.



Jeffrey A. Smith  
Primary Examiner

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on October 28, 2005 has been entered.

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because this application has been filed with informal drawings which are acceptable for examination purposes only. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Derek C. Stettner on January 6, 2006.

The application has been amended as follows: Cancel claims 17-22, 24, and 25.

Enter new claim 3 as follows:

A system for ordering items available at a venue by a venue attendee, the system comprising:

a display board displaying instructions to attendees on how to place an order, the display board being simultaneously viewed by multiple venue attendees at the venue;

a wireless device for generating an order of an item based on the instructions displayed on said display board and transmitting said order via a network, said order having a location identification information within said venue, a desired delivery time, and a payment option;

a first roaming vendor communication device within said venue, said vendor communication device having a unique communication channel;

an order station having a unique communication channel and receiving said order from said wireless device via said network, said order station performing a credit

check on said payment option and if credit check is positive transmitting said order to said first roaming vendor communication device based on said location identification information; and

    a second roaming vendor communication device within said venue having a unique communication channel and receiving said order from said order station in the event the first roaming vendor communication device communicates a response indicating a rejection of the order, said second roaming vendor communication device configured to communicate one of an acceptance or rejection of the order to said order station,

    wherein said order station communicates an acceptance or rejection of said order to said wireless device, and if accepted, the order is delivered to a location based on said location identification information.

***Allowable Subject Matter***

Claims 3-5 and 8-16 are allowed.

The following is an examiner's statement of reasons for allowance: Statement of allowance is in reference to independent claim 3. All other claims are dependencies of this claim.

The present application is directed to a system for ordering items at a venue. The system allows an attendee to place an order for an item using a wireless communication device. The order is received by an order station and processed before being sent to a first roaming vendor communication device (Figure 1, item "36"). The first roaming vendor communication device can communicate either an acceptance or a

rejection of the order. If the order is rejected then the order station transmits the order to a second roaming vendor communication device for fulfillment (page 8, line 27 – page 9, line 15). Independent claim 3 recites the patentably distinct feature that a second roaming vendor device within the venue receives the order in the event a first roaming vendor device rejects the order.

**Discussion of most relevant prior art:**

The following references have been identified as the most relevant prior art to the claimed invention.

(i) US Patent 5,912,743 to Kinebuchi et al.: Kinebuchi discloses a system for providing a spectator of a venue having assigned seating with the ability to remotely order an item from a device (col. 18, line 40 – col. 19, line 15). However, Kinebuchi fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(ii) US Patent 5,991,749 to Morrill, Jr.: Morrill teaches providing payment account information in association with an order when the order is placed, and automatically charging the cost of an order (column 4, lines 39-67, column 5, lines 1-67, column 6, lines 1-13). However, Morrill fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(iii) US Publication 2001/0018660 A1 to Sehr: Sehr discloses a system for providing a spectator of a venue having assigned seating with the ability to remotely order an item

from a hand-held device for delivery to the spectator. Sehr also teaches providing payment account information with the order when the order is placed and automatically charging the cost of the order to the payment account. However, Sehr fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(iv) *Cavanaugh, Susan "Football concessions score with upscale, classic items". Nation's Restaurant News, vol. 28, no. 35, September 5, 1994.* This article discloses a remote terminal device used by a waiter at a sports stadium to enter a customer's order and send it to a kitchen for fulfillment. Cavanaugh fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(v) *JP 404169966A to Kawai*: Kawai discloses a restaurant service system wherein a customer's order is input by a waitress into a portable terminal unit. The order is then transmitted to a kitchen terminal unit for fulfillment. Kawai fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(vi) *US Patent 6,754,636 B1 to Walker et al.*: Walker discloses sending an offer to a second group of sellers if a first group of sellers rejects the offer (col. 14, lines 1-16). However, Walker fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

(vii) US Patent 6,473,739 B1 to Showghi et al.: Showghi discloses a system for providing a spectator of a venue having assigned seating with the ability to remotely order an item from a hand-held, wireless device. However, Showghi fails to anticipate or render obvious a second roaming vendor device within the venue receiving an order in the event a first roaming vendor device rejects the order.

Any comments considered necessary by Applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

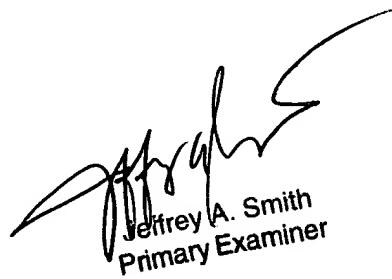
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

January 6, 2006



Jeffrey A. Smith  
Primary Examiner